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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS *
*
VS. * Indictment No.
* 2282CR00117
*
KAREN READ *
*
* * * * *

Day 28 - Trial with Jury
Before the Honorable Beverly Cannone

EXCERPT - CONTINUED TESTIMONY OF YURIY BUKHENIK

APPEARANCES:

For The Commonwealth:
BY: Adam Lally
Laura McLaughlin
Assistants District Attorney

For Karen Read:
BY: Alan Jackson
David Yannetti
Elizabeth Little
Attorneys at Law

Norfolk Superior Courthouse
Dedham, Massachusetts
Monday, June 10, 2024

Paula M. Mills
Retired Certified Court Reporter
and Court Transcriptionist

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
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P R O C E E D I N G SJune 10, 2024

(Court in session at 8:35 a.m.)

(Defendant present. Jury not present.)

THE CLERK: 22-117, Commonwealth versus Karen Read. Counsel and Your Honor, for your information, at this very second, FTR is not running. Ms. King is the official court reporter, and she is on the record.

THE COURT: Good morning. So we are here on the Commonwealth's renewed motion for reciprocal discovery and the motion and the motion to exclude the defendant's newly provided expert Dr. Marie Russell. I will hear you on your motion, Mr. Lally.

MS. MC LAUGHLIN: Thank you, Your Honor. Essentially, the Commonwealth is just seeking that the defendant produce what the Commonwealth is entitled to under Rule 14 and what every criminal defendant in the Commonwealth of Massachusetts must produce to the prosecution. It was not until the day prior to trial on April 15, 2024, that the defendant provided notice of all their experts.

During impanelment, the Commonwealth filed a renewed motion for reciprocal discovery, and the

1 defendant was ordered within a week to produce the
2 expert opinion testimony that the Commonwealth is
3 entitled to.

4 We are now entering, I believe, Week 8 of the
5 trial. The Commonwealth has not received any
6 intended expert opinions, anything that those
7 experts -- any written reports, opinions or
8 anything that those experts have based their
9 opinions on.

10 Essentially, the defendant's strategic
11 decision is not to retain their own expert but,
12 rather, rely on the U.S. Attorney's Office
13 investigation does not alleviate them or relieve
14 them from their Rule 14 obligations.

15 As it pertains to Dr. Marie Russell, the
16 Commonwealth did not receive notice that she is an
17 intended expert until about Week 6 of the trial on
18 May 21st, and it wasn't until May 30th that the
19 defendant provided a brief synopsis of what her
20 expected testimony would be.

21 Essentially, looking at the balancing test set
22 forth by the case law, the Commonwealth was
23 extremely surprised by this disclosure and,
24 further, the Commonwealth would put that
25 defendant's delayed decisions to produce reciprocal

1 discovery is in bad faith. It is intended to
2 ambush the Commonwealth and conduct a trial by
3 surprise. We are still receiving reciprocal
4 discovery. Over the weekend, we received
5 additional photographs that the defendant intends
6 to use. The Commonwealth is extremely prejudiced
7 by these delayed disclosures.

8 So looking at all of the balancing factors,
9 the exclusion of Dr. Russell is really the only
10 remedy that is appropriate, given that we are in
11 Week 8 of the trial. The Commonwealth cannot seek
12 a continuance. The Commonwealth sort of has their
13 hands tied with how to effectively prepare for
14 cross-examination of that witness as well as all
15 the other witnesses. We don't have any materials.
16 We don't know what the experts' precise opinions
17 are and what they would testify to and,
18 essentially, it is in bad faith and there is no
19 less severe sanction.

20 So the Commonwealth would move to exclude
21 Dr. Russell. And, at this point, we are
22 essentially just seeking the reciprocal discovery
23 that the Commonwealth is entitled to to be able to
24 effectively prepare cross-examination of these
25 witnesses. Thank you very much.

1 THE COURT: Who is arguing?

2 MR. YANNETTI: I am, Your Honor. There is no
3 mic at counsel table. So I am going to the podium
4 with the Court's permission.

5 THE COURT: Yes.

6 MR. YANNETTI: We need to be heard on this.

7 THE COURT: That's why we are here,
8 Mr. Yannetti.

9 MR. YANNETTI: Thank you. I'd like to start
10 with the most outrageous and false assertion that
11 the Commonwealth made in its motion.

12 THE COURT: There is no jury here. Can I just
13 ask you how long this is going to take.

14 MR. YANNETTI: Between five and 10 minutes,
15 tops.

16 THE COURT: Because I don't need --

17 MR. YANNETTI: Your Honor, I need to make my
18 argument in the way that I think is most effective
19 for my client. I will keep this brief and
20 succinct, but I have points to make that I need to
21 put on record.

22 THE COURT: Okay. And I am the person you are
23 trying to convince, correct?

24 MR. YANNETTI: I understand. I understand
25 that. The Commonwealth, in a public filing, wrote

1 the following on page 3 of its motion, quote,
2 "During a pretrial hearing on February 15th when
3 asked by the Court whether there was any dispute
4 about a canine's involvement or canine DNA,
5 Attorney Yannetti indicated, no, and that the
6 defense was not pursuing such claim."

7 I was astounded to read that for two reasons.
8 First of all, it is false. It is a lie. Second,
9 the Commonwealth has knowingly lied about something
10 where it's easily verifiable that they lied. We
11 pulled the tape from February 15th of 2024.

12 THE COURT: I don't have that.

13 MR. YANNETTI: I'm sorry?

14 THE COURT: I don't have that in my motion.

15 MR. YANNETTI: It's on page 3, Your Honor.

16 THE COURT: I have the Commonwealth's renewed
17 motion for reciprocal discovery and motion to
18 exclude defendant's expert, Dr. Marie Russell. I
19 don't see your name at all, Mr. Yannetti. I'm on
20 page 3.

21 MR. YANNETTI: Oh, I'm sorry. It's not page
22 3. It's page 4. I apologize. My name is right
23 there on page 4. It says exactly what I just
24 argued to the Court. It's about the fifth line
25 down. It starts, "During a final pretrial hearing

1 on February 15th," exactly as I said.

2 THE COURT: Okay.

3 MR. YANNETTI: All right? We pulled the tape
4 from that February 15th hearing. Here is what was
5 actually said. This Court asked me the following,
6 quote, "While we are talking about DNA,
7 Mr. Yannetti, do we need to be concerned about
8 canine DNA? Where do we stand with that?"

9 I replied, "No. I think this is the only
10 outstanding DNA issue."

11 The Court then replied, "Okay. So all right.
12 We are not dealing with canine DNA." And I said
13 "no."

14 There is nothing in there, contrary to what
15 the Commonwealth has represented to this Court in a
16 public filing that I said there was no canine
17 involvement. There is nothing in there, contrary
18 to what the canine (sic) represented to this Court
19 and to the public, that the defense was not
20 pursuing such a claim.

21 Can you imagine the nerve of the Commonwealth
22 to spin that interaction --

23 THE COURT: This is the hyperbole I don't
24 need. Could you please get to the point? We have
25 the jury coming in in 15 minutes.

1 MR. YANNETTI: I understand. But this is --
2 my integrity has been attacked. There have been
3 allegations of bad faith, that's been attacked.
4 And I need to defend myself and my client.

5 We were only discussing at that time whether
6 canine DNA was still outstanding, and I succinctly
7 replied, no. And they've spun that or tried to
8 spin that into a claim that we are somehow waiving
9 our right to argue that John O'Keefe's arm injuries
10 were consistent with a dog attack. And I ask you,
11 have they no shame?

12 I'm sure it's not lost on this Court that this
13 false filing by the Commonwealth comes on the heels
14 of their nefarious attempt to pass off an inverted
15 video, a false video, before this good jury hearing
16 this case. Never once during the direct
17 examination of Sergeant Bukhenik did they inquire
18 or mention the fact that the video shows Michael
19 Proctor --

20 THE COURT: All right. I am going to stop
21 you. Please direct your comments to Rule 14 and
22 the reciprocal discovery obligations that the
23 defense has. That's what this motion is. I know
24 you have a speech you want to make, Mr. Yannetti.

25 MR. YANNETTI: It's not a speech. Your Honor,

1 most respectfully, it's not a speech. It's a
2 defense of being alleged to have committed bad
3 faith.

4 THE COURT: So you've moved on from that. So
5 please just focus on Rule 14 and let's do it in two
6 separate parts.

7 So you changed -- you're not calling Frank
8 Sheridan?

9 MR. YANNETTI: No. We are calling Frank
10 Sheridan.

11 THE COURT: All right. So you've got a new
12 medical, Dr. Russell. We'll do that part of it
13 separately. Tell me about what you've provided the
14 Commonwealth on Chris Van Ne.

15 MR. YANNETTI: They've gotten his C.V. and
16 they've gotten the substance of his opinion from us
17 and they've had that for a long time. And the
18 Court, I believe, has already suggested that a voir
19 dire will be done prior to his testimony.

20 THE COURT: All right. So it's starting to
21 look like we might need a whole day of voir dire,
22 and I'm trying to avoid that. So is the
23 Commonwealth satisfied that -- when did you provide
24 -- did you provide anything recently since the
25 filing of the Commonwealth's motion?

1 MR. YANNETTI: Not on Mr. Van Ne. No.

2 THE COURT: What does the Commonwealth have on
3 Mr. Van Ne?

4 MR. MC LAUGHLIN: On Mr. Van Ne, all the
5 Commonwealth has is what's contained, the synopsis
6 on page 2, the first full paragraph. We do not
7 know what his opinions are. It says he'll testify
8 regarding his opinions and conclusions about
9 reconstruction and EDR data obtained in connection
10 with this case. He'll testify to chronological
11 data derived from the EDR, including key cycles and
12 triggering events from the time period in question.
13 I have no understanding or information about what
14 chronological data he's going to testify to, what
15 his ultimate opinions are, anything beyond that
16 relatively vague synopsis that does not comply with
17 Rule 14.

18 Similarly, what's outlined in the rest of the
19 motion, that's all the expert evidence the
20 Commonwealth has received from the defense, is
21 contained within the Commonwealth's motion.

22 THE COURT: So the defense needs to provide --
23 I'd suggest you listen. The defense needs to
24 provide what chronological data Mr. Van Ne relied
25 upon and exactly what his opinion is.

1 MR. YANNETTI: Correct.

2 THE COURT: All right? By the close of
3 business tomorrow.

4 MR. YANNETTI: That's fine.

5 THE COURT: Now, regarding the three experts
6 from ARCCA -- so I've read that report. I can't
7 tell who does what or what the basis of their
8 opinion is. So what have you provided?

9 MR. YANNETTI: Your Honor, we have provided
10 everything that we know. We've mentioned to this
11 Court at sidebar these experts did not arise from
12 us finding them.

13 THE COURT: I understand that.

14 MR. YANNETTI: These experts were hired by the
15 federal government and they provided a report to us
16 pursuant to the *Tuey* request. And it was
17 specifically outlined and ruled that they could not
18 prep with us for trial.

19 THE COURT: So I'm to believe that the defense
20 is calling three witnesses that you've never spoken
21 to and putting them on the stand here?

22 MR. YANNETTI: That's essentially it. We've
23 spoken to them only for the purposes of
24 coordination of their testimony and their
25 background. We have not been able to interview

1 them regarding their findings which are outlined in
2 detail in the reports that both sides have.

3 THE COURT: See, I don't see that as being --
4 the report, I don't see that as being detailed. It
5 leaves a lot of questions, as the gatekeeper, as to
6 what they can testify to. And you have not
7 complied with your Rule 14 obligations.

8 MR. YANNETTI: We can't, Your Honor.

9 THE COURT: So you can't but you haven't. So
10 I am left with you haven't complied. So we need to
11 get everybody here for a voir dire. They can
12 testify in voir dire, right?

13 MR. YANNETTI: Yes.

14 THE COURT: We need to do that well in advance
15 of their testimony.

16 MR. YANNETTI: Okay. That's fine, Your Honor.

17 THE COURT: All right?

18 MR. YANNETTI: Yes.

19 THE COURT: And now tell me about this E.R.
20 doc. Is she an E.R. doc? I haven't seen her --

21 MR. YANNETTI: She is.

22 THE COURT: She's not a pathologist?

23 MR. YANNETTI: Well, she is a pathologist but
24 she has as lot of experience in an E.R., which is
25 why she has the experience of having seen dog

1 scratches and dog bites and dog attacks.

2 THE COURT: All right. So this is not
3 somebody that was involved in the federal
4 investigation, correct?

5 MR. YANNETTI: Correct.

6 THE COURT: All right. So you need to provide
7 immediately -- I want a voir dire of her this week.
8 So we can get her here Wednesday, and we want the
9 other folks up here from Pennsylvania this week, as
10 well.

11 MR. YANNETTI: Okay. We will make those
12 calls.

13 THE COURT: So we need to pick a day. How
14 long do you expect the voir dire of each of these
15 witnesses, if, in fact, the defense has not spoken
16 to these witnesses from Pennsylvania about the
17 nature of their opinion? You must want it too to
18 be able to question. How long do you expect the
19 voir dire of each of these witnesses to take? I
20 went and told the jury last week -- excuse me --
21 last week --

22 MR. YANNETTI: I'm sorry. I'm just conferring
23 with my client.

24 THE COURT: -- that we were going to get them
25 this case by the end of the month based on your

1 representation which included voir dieres. It looks
2 like at least a day of voir dire hearings here.

3 MR. YANNETTI: May I --

4 THE COURT: Yes.

5 MR. YANNETTI: At least with regard to the
6 ARCCA witnesses, that's my co-counsel's bailiwick.
7 He anticipates that unless there are, you know, a
8 substantial number of objections during the voir
9 dire, he anticipates being able to accomplish that
10 between 45 minutes to an hour with each of those
11 three.

12 With regard to Dr. Russell, we anticipate a
13 half hour. Oh, I'm sorry. Only two from ARCCA.
14 That's right.

15 THE COURT: You are only calling two?

16 MR. JACKSON: We are not calling --

17 THE COURT: Are you calling the two that are
18 certified as accident reconstructionists?

19 MR. JACKSON: Drs. Rentschler and Wolfe, yes.

20 MR. YANNETTI: So that's about two hours,
21 total, for those two plus Russell.

22 THE COURT: I think it will be a whole lot
23 more.

24 What do you say, Mr. Lally or Ms. McLaughlin?
25 How long do you anticipate for voir dire?

1 MR. LALLY: It's a little difficult to say,
2 considering I don't know what they would testify
3 to. But, for voir dire purposes, I don't
4 anticipate it being much more than 20 minutes, 10
5 minutes, 20 minutes. Somewhere in that area.

6 THE COURT: Do you think we can get a half a
7 day of evidence in?

8 MR. LALLY: I certainly hope so. I mean,
9 that's more what I'm focused on, obviously.

10 THE COURT: What have you provided regarding
11 Dr. Russell?

12 MR. YANNETTI: We've completely complied with
13 Rule 14.

14 THE COURT: So I have to make that decision.
15 Could you just tell me what you've provided,
16 please?

17 MR. YANNETTI: Sure. Yes. Well, first of
18 all, Your Honor, we came in contact with her or
19 were notified of her on May 17th.

20 THE COURT: Did she reach out to you first?

21 MR. YANNETTI: No. We reached out to her, but
22 it was through a mutual contact. And we learned of
23 her expertise and that she might be able to help.
24 And then within days of that, we made the decision
25 to retain her, and we sent along her C.V. within

1 four days of our initial contact with her. Then on
2 May 30th, Ms. Little actually sent an email to both
3 Mr. Lally and Ms. McLaughlin, talking about what
4 she reviewed and what her anticipated testimony
5 will be including a substance of the opinion she
6 will give.

7 When the Commonwealth says they don't know
8 what she is going to say, I just don't know where
9 that's coming from. It's right in the email.

10 THE COURT: So if the email is part of the
11 motion, that's insufficient. All right. We'll
12 figure out a day later this morning. I suggest you
13 contact your experts and tell them they're all
14 needed here this week. Perhaps they can agree upon
15 an afternoon that they will be ready to be here.

16 MR. YANNETTI: Yes, Your Honor.

17 THE COURT: We'll come back out for trial in
18 10 minutes.

19 (Whereupon, there was a brief recess taken.)

20 (Court resumes.)

21 (Defendant present. Jury present.)

22 THE CLERK: 22-117, the Commonwealth versus
23 Karen Read.

24 THE COURT: Good morning, jurors. We all met
25 here at 8:30 to try and streamline things and, as a

1 result of what we did this morning, it looks like
2 there will be some day this week that we will all
3 meet to go through things that we need to go
4 through but we will excuse you. I just don't know
5 quite yet when that will be. We will know by the
6 end of the day today.

7 Also, on the 21st, originally we said we would
8 be off for the 21st. But, again, you know that we
9 don't want to take up any more of your time than
10 necessary. So we will meet on the 21st but just in
11 the morning because I have a longstanding afternoon
12 that we cannot cancel. So the 21st will be a half
13 a day. So we will let you know more as the day
14 progresses.

15 All right. I do have to ask those questions.
16 Were you all able to follow the instructions and
17 refrain from discussing this case with anyone since
18 we left on Friday?

19 Everyone said "yes" or nodded affirmatively.

20 Were you also able to follow the instructions
21 and refrain from doing any independent research or
22 investigation into this case?

23 Everyone said "yes" and nodded affirmatively.

24 Did anyone happen to see, hear, read anything
25 about this case since we left here on Friday?

1 Thank you. Everyone said "no" or shook their
2 heads. Thank you very much.

3 Can we get Sergeant Bukhenik, please.
4 Whereupon,

5 YURIY BUKHENIK, Resuming
6 having been first duly sworn, was examined and
7 testified under oath as follows:

8 THE COURT: Okay, Mr. Jackson.

9 MR. JACKSON: Thank you.

10 CONTINUED CROSS-EXAMINATION

11 BY MR. JACKSON:

12 Q When we left off on Thursday, we were
13 discussing the sally port video that was introduced by
14 the Commonwealth on Wednesday during direct
15 examination. Do you recall that?

16 A I do.

17 Q When he introduced that video, Mr. Lally asked
18 you several very specific questions about the video,
19 including if you recognized the video in general,
20 correct?

21 A Yes, he did.

22 Q And you said you did?

23 A I did.

24 Q He also asked you whether you recognized any
25 of the individuals in the video at a particular time

1 where he paused the video and you used your green laser
2 pointer to point out a couple of individuals that you
3 recognized. Do you recall that?

4 A I do.

5 Q And, in that pause, you indicated at that time
6 on Wednesday that you recognized Trooper Proctor and
7 what you thought was yourself, the person slipping at
8 the front of the SUV, correct?

9 A I indicated that Trooper Proctor and myself
10 were in the video and there was an individual slipping
11 in the front of the vehicle.

12 Q And then on Thursday, you corrected that to
13 make sure that we were clear about that the person who
14 was slipping actually was the tow driver, not you,
15 correct?

16 A That's what it appeared, yes.

17 MR. JACKSON: I'd like to take a quick look at
18 that with the Court's permission at 4:46. May I
19 publish that?

20 THE COURT: Yes.

21 BY MR. JACKSON:

22 Q This is 446. It's the same video that you
23 were shown by Mr. Lally where at runtime about 5:37:05
24 p.m. that the -- I'm sorry. I said "runtime." I meant
25 time of day. The time of day would be most easily seen

1 right down here, pretty small from where you're at. If
2 you can't see that, please let me know.

3 A I do not see that, no.

4 Q Okay.

5 MR. JACKSON: Your Honor, I'll hold off on
6 that question, and I may ask the Court for relief
7 in just a moment.

8 If we can play this for just a question and
9 then I'll ask you, Mr. Bates, if you can pause it.
10 (Whereupon, the video is played.)

11 MR. JACKSON: Go ahead and pause there.

12 (Whereupon, the video is paused.)

13 BY MR. JACKSON:

14 Q Sergeant, this is the basic -- the point at
15 which it was paused when Mr. Lally asked you to
16 identify the individuals in the video, correct?

17 A I believe it was a different time. I'm not
18 sure.

19 Q Do you remember using your green laser
20 pointer, pointing at the person in the back and
21 identifying that person as Trooper Proctor and then
22 pointing at the person in the front, screen right,
23 mistakenly, understandably, mistakenly as you? Do you
24 remember that?

25 A I remember indicating where the individuals

1 would be, yes.

2 Q Do you have the green laser pointer with you?

3 A Could you point at the location where you see
4 Trooper Proctor?

5 A I do not know specifically right now if that
6 is Trooper Proctor behind the vehicle. But, when
7 Mr. Lally asked me to indicate where we would be, it
8 was in this location here (indicating).

9 Q You're indicating toward the rear of the SUV?

10 A Correct.

11 Q On Wednesday -- I just want to draw your
12 attention back to your testimony on Wednesday.

13 A Yes.

14 Q You used the laser pointer and pointed at two
15 different individuals, the person toward the back, and
16 you identified him as Mr. Proctor, as Trooper, correct,
17 on Wednesday?

18 A I indicated that Trooper Proctor and myself
19 would be in the shot at the rear of the vehicle. And
20 then I indicated that I am wearing an olive drab
21 baseball hat and Trooper Proctor is wearing a winter-
22 style knit black hat.

23 Q Is it true that on Wednesday what -- the
24 question you were asked from Mr. Lally is (as read)
25 "Ms. Gilman, if you can just pause there for a moment

1 as the sergeant is almost falling in the video." And
2 the Court said, "Keep your voice up, Mr. Lally."

3 Do you recall that?

4 A I do not recall that, no.

5 Q Do you remember Mr. Lally saying (as read),
6 "Sergeant Bukhenik, with reference to any of the
7 individuals you see in this video, do you recognize any
8 of those individuals," and you responding, "Um, I can
9 recognize Trooper Proctor and myself." And you used
10 the green laser pointer in doing so.

11 A Yes, I did.

12 Q And that was on this area. It may not be to
13 the frame but this is where the video was paused when
14 you made that identification, correct?

15 A It was approximately at this time.

16 Q Okay. So you were then asked after you
17 identified -- and, at that time, you did identify
18 Trooper Proctor and, again, mistakenly, yourself,
19 correct?

20 A I directed the laser to the area where we
21 would be.

22 Q Okay. And Trooper Proctor is the one toward
23 the back of the truck?

24 A Again, I cannot tell you which individual.
25 There are multiple individuals there. I do not know at

1 this point in time where it's frozen if that's exactly
2 Trooper Proctor. I know we were present at that
3 location, and I know what he was wearing for a
4 headdress and what I was wearing.

5 THE COURT: All right. So you have to move
6 along, please.

7 BY MR. JACKSON:

8 Q Then why did -- one more question, Your Honor.
9 Then why on Wednesday did you indicate very
10 clearly the person toward the back of the SUV was
11 Trooper Proctor? If you don't know, why did you say
12 that on Wednesday?

13 A During the frozen frame, I could tell there
14 were two individuals back there, and I was at one point
15 in time in that location with Trooper Proctor.

16 Q Does that appear to be Trooper Proctor in the
17 back of the car?

18 A From where the video is frozen right now, I
19 cannot tell.

20 Q So you're changing your testimony from
21 Wednesday.

22 MR. LALLY: Objection.

23 THE COURT: Are you changing your testimony?

24 THE WITNESS: I am not changing my testimony.

25 No.

1 THE COURT: Next question, Mr. Jackson.

2 BY MR. JACKSON:

3 Q You were then asked whether the video was true
4 and accurate in terms of its depiction of what you saw,
5 what you observed in the sally port that night,
6 correct?

7 A I indicated the video is true and accurate to
8 the location.

9 Q And you were then asked whether or not, in
10 looking at that video, watching it, either you or
11 Trooper Proctor approached, manipulated, touched that
12 right rear taillight at any time, and your answer was,
13 never, correct?

14 Q That's correct.

15 Q While you testified, this is the video that
16 was displayed for the jurors, correct? In other words,
17 it was this orientation, the front of the truck facing
18 right, the rear of the truck facing left, correct?

19 A That's correct.

20 Q And, for all appearances, it would appear that
21 the right rear taillight of the SUV is the one facing
22 the jurors, if you will, facing the viewer, right, from
23 appearances if you didn't know anything different?

24 A Can you rephrase that question, please?

25 Q Sure. Just from the appearance of the video

1 as it is now, the appearance of the video, looks like
2 the right rear taillight is the taillight that's facing
3 the jurors, facing the viewer, toward the rear of the
4 truck, correct?

5 A As it is frozen, correct.

6 Q And, on Wednesday -- I want to move through
7 this relatively briefly, Sergeant. On Wednesday, you
8 did not mention that this video was inverted, did you?

9 A It was not brought out, no.

10 Q Not brought out. I mean, that is a passive
11 way of saying it. I'm asking you directly. Did you
12 mention that this was an inverted video?

13 A Not on Wednesday, no.

14 Q On Thursday -- Mr. Lally finished his
15 questioning on Wednesday and then came back on Thursday
16 and you continued on direct examination under
17 questioning by Mr. Lally again to start the day,
18 correct?

19 A That is correct.

20 Q And, during that testimony on Thursday
21 morning, you also under direct examination did not
22 mention that this video was inverted, did you?

23 A I did not, no.

24 Q And then it was my turn to ask you questions.
25 Do you recall that?

1 A I do.

2 Q And then I began asking you questions about
3 the accuracy of this video and at that time, for the
4 first time, you said it appears that it is a mirror
5 image; it's an inverted video, correct?

6 A I advised you that it is a mirrored image at
7 that point, correct.

8 Q Would you agree with me now as you sit here
9 that this video as we are looking at it is not a true
10 and accurate depiction of what you viewed in that sally
11 port that night?

12 A I would not agree with you, no.

13 Q You believe that what the jurors are seeing
14 right here is true and accurate surveillance footage of
15 the sally port that night?

16 A Yes. It's just mirrored.

17 Q Which means what's left is right and what's
18 right is left, correct?

19 A Correct. If the jurors were actually standing
20 where the camera is recording, which it's recording all
21 accurate depiction of activity and events taking place,
22 the back of the vehicle would be on the right and the
23 front of the vehicle would be on the left. But all
24 activity is accurately depicted in the video.

25 Q So in point of fact, everything in this video,

1 every bit of it, is reversed, correct?

2 A It is just a mirror image.

3 Q So it's not accurate, is it?

4 A It's an accurate depiction of what is taking
5 place.

6 Q Sergeant Bukhenik, if I were to ask you -- let
7 me give you a hypothetical: Let's say you were
8 investigating a circumstance in which a person was -- a
9 suspect was being identified by five witnesses based on
10 a tattoo on that person's left arm.

11 And then you go show that witness or those
12 series of witnesses an inverted version of a photograph
13 of that person with the tattoo appearing on his right
14 arm, and those witnesses all say, no, that's not the
15 guy. I remember the guy. The guy had the tat on the
16 left arm.

17 Would you think that that's an accurate
18 depiction of the person with the tattoo?

19 MR. LALLY: Objection.

20 THE COURT: Sustained.

21 BY MR. JACKSON:

22 Q Do you agree with me that an inverted video is
23 not accurate? It's inverted, by definition, right?

24 A It is an accurate depiction of the events
25 taking place.

1 Q You reviewed this video in its entirety, you
2 testified, correct?

3 A Yes.

4 Q About how long would you say this video is in
5 its runtime from start to finish?

6 A I did not take note of the length of the
7 video.

8 MR. JACKSON: All right. I'm going to ask
9 you, Mr. Bates, if you could, with the Court's
10 permission, can you pull the cursor back to the
11 beginning of the time of day for this video and
12 pause it there.

13 BY MR. JACKSON:

14 Q Can you see -- and this is not an eye exam.
15 Can you see the timestamp on the lower left-hand side?

16 A No, I cannot.

17 MR. JACKSON: Your Honor, with the Court's
18 permission --

19 THE COURT: I'd like to see you at sidebar.
20 (Whereupon, there was a sidebar conference as
21 follows:)

22 THE COURT: I did tell you before no
23 demonstrations without me knowing about it. "With
24 the Court's permission, I'm going to do this" --
25 say "yes" because you didn't tell me what you were

1 doing until after he did it. Be careful of those
2 things, Mr. Jackson.

3 MR. JACKSON: Well, when I think of it, I will
4 obviously let the Court know. I wouldn't want
5 to --

6 THE COURT: No. Something with the time.
7 What do you want to do?

8 MR. JACKSON: I thought he might be able to
9 see it.

10 THE COURT: Do you have a still?

11 MR. JACKSON: I don't have a still. But he
12 could step off the witness stand and take a look at
13 two times, the beginning time of day and the end
14 time.

15 THE COURT: What are the times?

16 MR. JACKSON: 5:30 and 5:48.

17 THE COURT: Are you in agreement that the
18 times are 5:30 and 5:48?

19 MR. LALLY: As a beginning time? I'll take
20 counsel's word for it.

21 MR. JACKSON: Can we just stipulate?

22 THE COURT: Well, that's what I'm asking. Do
23 you agree?

24 MR. LALLY: I think it's roughly what it is,
25 and I can just say the runtime of the video was

1 five minutes and 51 seconds.

2 MR. JACKSON: Those are those things. That's
3 what I need out of this witness.

4 THE COURT: All right. So we don't need the
5 times. We can figure out the times. But, the
6 runtime, you agree with this, 5:51?

7 MR. LALLY: Uh-huh.

8 THE COURT: They'll have it. You'll have it
9 and you can argue it.

10 MR. JACKSON: I realize that.

11 THE COURT: You don't need to get it from the
12 witness.

13 MR. JACKSON: I do need to get it from the
14 witness. At the time -- I need him to acknowledge
15 that this is not a complete video, that there are
16 times missing.

17 THE COURT: It's motion activated. Is that
18 why the times --

19 MR. JACKSON: I don't know.

20 THE COURT: Was that testimony on this or was
21 that -- that was testimony on this, right?

22 MR. LALLY: Yes. Yes.

23 THE COURT: I know I heard testimony on motion
24 activated.

25 MR. JACKSON: Your Honor, this is my cross-

1 examination.

2 THE COURT: Right. I'm not going to let him
3 get up and look at it. You've got to stipulate --

4 MR. JACKSON: I'm happy to do that.

5 THE COURT: -- that it is five minutes and 51
6 seconds.

7 MR. JACKSON: Five minutes --

8 THE COURT: What did you say it was?

9 MR. LALLY: I believe it's five minutes and 51
10 seconds of runtime.

11 MR. JACKSON: 5:51, 5:52. I'll stipulate to
12 that. And, also, if I could just get a stipulation
13 for the beginning runtime -- I'm sorry -- the
14 beginning time?

15 THE COURT: Oh, you're saying the time is
16 longer than the 5:51?

17 MR. JACKSON: It's 17 minutes. It should be
18 17 minutes long.

19 MR. LALLY: It is. It's motion activated.

20 THE COURT: So do you agree that it's 17
21 minutes long?

22 MR. LALLY: Roughly, yeah.

23 MR. JACKSON: It should be. It's not, but it
24 should be.

25 THE COURT: Are you satisfied with that time?

1 MR. LALLY: 5:30:32.

2 MR. JACKSON: 5:30 and then whatever. And
3 then it goes to 5:48 and whatever. I've got the
4 times in my notes, the exact times.

5 THE COURT: You don't have to get it from the
6 witness if you get it from Mr. Lally, right?

7 MR. JACKSON: Right. If we could have one or
8 two questions of the witness based on that.

9 MR. LALLY: That sounds about right. I don't
10 know the end time offhand.

11 THE COURT: Why don't you have him just put it
12 down, put it at the end time. You can look at the
13 end time and then we'll move on.

14 MR. JACKSON: That's exactly what I was --

15 THE COURT: You're not going to get it from
16 the witness and I'm not going to make him come up
17 and do a demonstration.

18 MR. JACKSON: It's not even a demonstration.

19 THE COURT: I'm not going to have him --

20 MR. JACKSON: If we had monitors on the
21 witness stand, we wouldn't have to --

22 THE COURT: And, if you had a still shot, you
23 could show him. So okay. So you've agreed it's
24 5:51, right?

25 MR. LALLY: Yes.

1 THE COURT: You both tell me what your
2 stipulation is.

3 MR. JACKSON: That the beginning time of day
4 is 5:51, and I'll fill in the second --

5 THE COURT: No. The beginning time is 5:30.

6 MR. JACKSON: I'm sorry. 5:30, and a number
7 of seconds. It's in my notes.

8 THE COURT: Okay.

9 MR. JACKSON: The end time of day is 5:48 and
10 the number of seconds, and I'll fill in the blank.

11 THE COURT: Okay.

12 MR. JACKSON: But the total run time is five
13 minutes and 51 seconds.

14 THE COURT: Do you agree with all that,
15 Mr. Lally?

16 MS. MC LAUGHLIN: The end time is 5:30:23, to
17 be precise.

18 THE COURT: And time ends -- the end time is
19 what?

20 MR. JACKSON: The end time is 5:48, and the
21 number of seconds is in my notes.

22 THE COURT: Okay.

23 MR. JACKSON: That's five minutes and 51
24 seconds total runtime.

25 THE COURT: So do you want me to tell the jury

1 this?

2 MR. JACKSON: No. I'll do it.

3 THE COURT: Or do you want to tell your
4 witness?

5 MR. JACKSON: I'm just going to ask for a
6 stipulation first. Mr. Lally -- the Commonwealth
7 stipulates to these two times --

8 THE COURT: So that's typically not how it's
9 done. I tell the jury that we have the following
10 stipulation, and then you can say what the
11 stipulation is. You cannot question the prosecutor
12 during the course of this trial.

13 MR. JACKSON: I'm not questioning him.

14 THE COURT: No. I'm just telling you --

15 MR. JACKSON: I'm asking for the stipulation.

16 THE COURT: Please. Let me talk.

17 MR. JACKSON: I have let you talk. You are
18 not letting me make a record.

19 THE COURT: Oh, you've made a record. The
20 prosecutor is agreeing to this. You can't openly
21 say in court in front of the jury, Mr. Lally, will
22 you stipulate to this. That's all I was saying to
23 you.

24 MR. JACKSON: Understood. Understood.

25 MS. MC LAUGHLIN: Your Honor, I do have the

1 end time. It's 5:48:15 seconds.

2 THE COURT: Okay. I am going to tell them
3 that the parties stipulate that the video begins at
4 5:30:23 seconds.

5 MS. MC LAUGHLIN: Yes, Your Honor.

6 THE COURT: 5:30 p.m. and 23 seconds, and it
7 ends at 5:48:15. All right. And that the total
8 runtime is five minutes and 51 seconds.

9 MR. JACKSON: Correct. Thank you. That's all
10 I need.

11 (Whereupon, the sidebar conference concluded.)

12 THE COURT: Jurors, sometimes lawyers have
13 what we call stipulations. Rather than prolonging
14 either the testimony or calling an additional
15 witness, lawyers agree as to certain facts. So
16 what the lawyers have agreed to here is that this
17 video begins at 5:30:23, 5:30 p.m. and 23 seconds,
18 and it ends at 5:48:15. And the total runtime of
19 the video is 5:51 seconds.

20 All right. Your questions, Mr. Jackson.

21 THE COURT: Thank you, Your Honor.

22 BY MR. JACKSON:

23 Q Sergeant Bukhenik, given the fact that the
24 beginning time, the time of day, is 5:30 and 23 seconds
25 in the evening and the end time of this video stops at

1 5:48 and 15 seconds, would you agree with me without
2 doing the math down to the seconds, that's about 17
3 minutes 50 seconds or so?

4 A In realtime, yes.

5 Q In realtime. The actual time of this video,
6 the runtime of this video, however, is only five
7 minutes and 51 seconds, less than six minutes? You'd
8 agree with that?

9 A That is what's captured.

10 Q So that means that about two-thirds of the
11 video is missing, correct?

12 A It's not missing. It's just not recorded.

13 Q It's not there?

14 A It was never there.

15 Q I'm not saying it was ever there. I don't
16 know if it was ever there or not. Neither do you. I'm
17 saying it's not there, correct?

18 A It was never recorded.

19 Q Well, you don't know what has been or wasn't
20 recorded, do you?

21 MR. LALLY: Objection.

22 THE COURT: I'll let him answer it.

23 THE WITNESS: I can only speak to what was
24 turned over and what we received. And, based on
25 the evidence that was produced, the video that was

1 produced, is what we got.

2 BY MR. JACKSON:

3 Q I understand. So based on that answer, you
4 acknowledge you don't know what may or may not have
5 been recorded without your knowledge?

6 A No.

7 Q Right. Did you notice that there were obvious
8 portions of the video in which individuals just seemed
9 to appear or aberrate out of nowhere?

10 A It's not a smooth recording of the events.
11 When the motion triggers the recording, the video
12 appears as if a person appeared in the video.

13 Q An aberration?

14 A But that is due to the triggering of the
15 recording.

16 Q Well, you don't know what it's due to because
17 you're not an IT person who actually captured the
18 video, correct?

19 MR. LALLY: Objection.

20 THE COURT: Sustained. Ask that differently.

21 MR. JACKSON: Sure.

22 BY MR. JACKSON:

23 Q You're not the IT person, the technical
24 person, who captured this video, correct?

25 A I am not, no.

1 Q You don't maintain this video system, do you?

2 A I do not, no.

3 Q You don't know the inner workings of how the
4 video system was originally installed or how it
5 operates, correct?

6 A Based on my training and experience, I know
7 that certain systems due to the restriction of the
8 storage of the system, they try to save the storage and
9 trigger the recording only by motion or certain time
10 parameters.

11 So in this video footage, I can tell you that
12 the video is triggered by motion to record.

13 Q Well, how much storage did this system have?

14 A I do not know.

15 Q What was the level of storage at the time that
16 this video was taken? Was it 60 percent? Was it 99
17 percent? What was it?

18 A I do not know.

19 Q So you actually don't know, Sergeant, the
20 inner workings of this system, do you?

21 A I do not know all the inner workings of the
22 system.

23 Q But you do know that there appears to be
24 portions of this video missing and portions of this
25 video in which people just seem to aberrate out of

1 nowhere?

2 A It's not missing. It just was not recorded.

3 Q Let's move to I believe it was 5:37 and a few
4 seconds.

5 MR. JACKSON: Okay. With the Court's
6 permission, could we play about less than a minute?

7 THE COURT: Yes.

8 (Whereupon, the video is played.)

9 MR. JACKSON: Pause it.

10 (Whereupon, the video is paused.)

11 BY MR. JACKSON:

12 Q Do you see where the person that was toward
13 the back of the vehicle went in this video?

14 A It appeared they went behind the vehicle.

15 Q Which would be which area of the vehicle, the
16 right or the left, in real life, not on this video?

17 A In real life, it would be the right rear
18 portion of the vehicle.

19 Q Toward the taillight area?

20 A That quarter panel, correct.

21 (Whereupon, the video is played.)

22 MR. JACKSON: Pause it.

23 (Whereupon, the video is paused.)

24 Q Did it appear that someone just seemed to
25 appear out of nowhere toward the rear of the vehicle

1 just now?

2 A Due to the triggering of the motion --

3 Q I didn't ask you why. I asked you if. Did it
4 appear as if someone just appeared out of nowhere in
5 the back of the vehicle?

6 A That's what the footage represents, yes.

7 MR. JACKSON: Okay.

8 (Whereupon, the video is played.)

9 MR. JACKSON: Pause it.

10 (Whereupon, the video is paused.)

11 Q Did you see that the person walking away from
12 the vehicle that you earlier on Wednesday identified as
13 Trooper Proctor appeared to have a notebook, black
14 portfolio in his hand?

15 A Yes, I did.

16 Q And can you see from there -- and I'm going to
17 ask you this, basically knowing the answer. Can you
18 see from there the time of day on the lower left side
19 as that person leaves the screen?

20 A No, I cannot.

21 Q Would you disagree if I indicated to you that
22 was 5:38 and seven seconds in the evening?

23 A I would have to see it for myself. I cannot
24 agree with you based on your statement.

25 MR. JACKSON: Your Honor, may we approach

1 briefly?

2 THE COURT: Sure.

3 (Whereupon, there was a sidebar conference as
4 follows:)

5 THE COURT: So he said he'd want to see it.
6 I'm going to let him see it. That's what you're
7 asking, right?

8 MR. JACKSON: Out of respect for the Court's
9 preference --

10 THE COURT: No, and I appreciate that.

11 MR. JACKSON: I think a stipulation to that
12 time is fine, just 5:30 --

13 THE COURT: Or you can ask -- he said he'd
14 have to see it. So do you want him to go see it?

15 MR. JACKSON: Sure.

16 (Whereupon, the sidebar conference concluded.)

17 THE COURT: So, Sergeant, we are going to ask
18 you to go take a look at that. Okay? And please
19 don't speak until you are back at the witness
20 stand.

21 (Witness complies.)

22 MR. JACKSON: May I?

23 THE COURT: Mr. Jackson?

24 MR. JACKSON: Thank you.

25 BY MR. JACKSON:

1 Q Sergeant, did you have an opportunity to look
2 at the time of day at the point that the video is
3 paused right now?

4 A Yes, I did.

5 Q What is that time of day?

6 A 5:38:07.

7 Q 5:38 and seven seconds, correct?

8 A That's correct.

9 Q And remind me about how far of a drive in time
10 is this location of Canton P.D. to 34 Fairview?

11 A With no traffic, no adverse weather or road
12 conditions, several minutes. Four minutes maybe, five
13 minutes, depending on which route you take.

14 MR. JACKSON: Your Honor, I have a flash drive
15 that I'd like to have marked?

16 THE COURT: Is it a different flash drive than
17 what you had on Friday?

18 MR. JACKSON: It is. I can explain at the
19 sidebar if the Court wishes.

20 THE COURT: Are you just marking it or do you
21 intend to show it?

22 MR. JACKSON: No. I intend to show it with the
23 Court's permission.

24 THE COURT: All right. So we'll mark it for
25 identification and then I do need to see you.

1 (Whereupon, thumb drive with video was entered and
2 marked Exhibit "YY" for Identification.)

3 THE COURT REPORTER: "YY" for Identification.

4 THE COURT: Thank you.

5 MR. JACKSON: May we approach, please, Your
6 Honor?

7 THE COURT: Yes.

8 (Whereupon, there was a sidebar conference as
9 follows:)

10 THE COURT: Have you seen it?

11 MR. LALLY: No.

12 MR. JACKSON: He has seen it. This is the
13 same video. We sent it to him yesterday, the same
14 video that we had on Friday. It is this video,
15 inverted. When we received the original video from
16 the share file from the Commonwealth, it was in an
17 executable format, an exe format, which is weird.
18 It should have been in just a video format. So
19 this video has the proper time of day on it, 5:38
20 and whatever it is. But it's completely inverted.
21 You can't see it. So it's exactly this video, just
22 inverted. There's no difference whatsoever.

23 THE COURT: You sent it to the Commonwealth
24 yesterday?

25 MR. JACKSON: We did. Actually, Saturday.

1 THE COURT: You haven't seen it?

2 MR. LALLY: I've seen as far as the video that
3 was produced on Thursday. I took a quick look at
4 this in the sense that it appeared to be the same
5 video that was sent. That's what I thought was
6 being sent, was just a formal copy of what --

7 THE COURT: Oh, because you hadn't received it
8 because I took it?

9 MR. LALLY: Ms. Gilman had burned a copy. So
10 that is why I didn't really bother to look at
11 something that appeared to be the same thing.

12 MR. JACKSON: And it is the same thing. It's
13 exactly this video, just literally the mirror
14 image.

15 THE COURT: How is it different than what we
16 had on Friday?

17 MR. JACKSON: The one on Friday -- I don't
18 know. It may be the same, but there is an anomaly
19 that occurred in one of the versions of the video
20 that we saw that we received from --

21 THE COURT: No, but I mean you said on Friday.

22 MR. JACKSON: That's what I'm explaining. I
23 don't know because I don't have it.

24 THE COURT: Hold on one second. Jurors, we
25 are going to give you a 10-minute break.

1 (Whereupon, the jury is escorted from the courtroom
2 for a brief recess and the sidebar conference
3 continues.)

4 THE COURT: I am prepared to allow in what was
5 marked "YY" on Friday because the Commonwealth has
6 seen it.

7 THE CLERK: Your Honor, that was marked today.
8 It was "XX."

9 THE COURT: "XX," Thursday. Are you objecting
10 to "XX" being --

11 MR. LALLY: No.

12 THE COURT: So show Mr. Lally the other one
13 and I'll come out and hear you.

14 MR. JACKSON: The only difference, I'll tell
15 the Court, the only difference is the blue
16 timestamp on the bottom says UTC minus 5 versus UTC
17 minus 8.

18 THE COURT: Well, so show him.

19 MR. JACKSON: Okay.

20 THE COURT: Are there any other surprises, any
21 other differences that we can deal with rather than
22 -- we've been at sidebar a few times.

23 MR. JACKSON: The only other thing that I want
24 to do is play the dark, grainy video which is in
25 446. I think that's already been played.

1 THE COURT: It's already in evidence.

2 MR. JACKSON: That's it.

3 THE COURT: I want to hear you on the
4 Trooper Proctor motion that the Commonwealth wanted
5 renewed for today, as well. What do you intend to
6 do regarding the internal affairs --

7 MR. JACKSON: Nothing.

8 THE COURT: Not mention it to -- at all?

9 MR. JACKSON: No. I'm not seeking the
10 introduction of that at all.

11 THE COURT: Okay.

12 MR. JACKSON: My cross-examination is going to
13 be based on bias.

14 THE COURT: Federal Grand Jury minutes?

15 MR. JACKSON: The Federal Grand Jury minutes.
16 A lot of the information that came out in the
17 Federal Grand Jury minutes will be reflected in my
18 questioning of Trooper Proctor, excluding,
19 completely excluding, anything having to do with
20 the --

21 THE COURT: Does that answer your question?

22 MR. LALLY: It does. The only other questions
23 I have were twofold: Number one, as it pertains to
24 bias, I certainly understand certain statements
25 contained within the text to friends and family as

1 well as other troopers fall into that category. I
2 don't think that there is anything, being any text
3 messages with any Canton police officers, that have
4 anything to do with bias. So I'd raise that.

5 Secondly, and I'm just going on sort of my
6 understanding as far as protective orders are
7 concerned that I don't believe any of the text
8 messages or any of the items contained can be
9 displayed on the screen. And I'm not saying
10 counsel intended to do that. I just want to
11 clarify that before.

12 THE COURT: Are you stuck with that protective
13 order, as well?

14 MR. JACKSON: No. I don't think so. No.
15 We've redacted everything having to do with *Tuey*,
16 you know, coming from the AUSA, all of it's been
17 redacted. It's just the text messages are there,
18 downloaded, their extraction from an iCloud
19 account. So we've been told we can, inside the
20 four corners of the courtroom we can use anything
21 we want to.

22 THE COURT: Okay.

23 MR. LALLY: And I'm not disputing that as far
24 as using what you want to. I just don't know if
25 that includes publishing it on a screen.

1 MR. JACKSON: We were not told that the use
2 and publication to the jury is separated. The
3 anticipation is you use it in the courtroom, how
4 you use it in the courtroom, displayed or
5 otherwise. There were no restrictions.

6 THE COURT: Do you intend to introduce, have
7 copies of it?

8 MR. JACKSON: I do.

9 THE COURT: Okay.

10 MR. JACKSON: I'll mark each hard copy and in
11 the same way that Mr. Lally has done.

12 THE COURT: Show Mr. Lally what it is you
13 intend to introduce.

14 MR. JACKSON: He's got everything. It's the
15 text messages; group chats with friends; group
16 chats with colleagues, the MSP colleagues, which we
17 are well aware of.

18 THE COURT: How about with Detective Albert?
19 That's what you raised, right?

20 MR. LALLY: Detective Albert and Sergeant
21 Goode.

22 MR. JACKSON: Sergeant Goode? I don't think I
23 have anything with Sergeant Goode that I'm
24 interested in. Sergeant Albert. I'm sorry.
25 Detective Albert, yes. There will be a couple of

1 text messages back and forth. We have redacted a
2 portion about --

3 THE COURT: Regarding -- because there is an
4 argument objecting to Detective Albert. So show
5 Mr. Lally what you intend to introduce.

6 MR. JACKSON: Of course. Sure.

7 THE COURT: So this will be very quick. Just
8 show Mr. Lally.

9 MR. JACKSON: Yes.

10 (Whereupon, the sidebar conference concluded and a
11 recess was taken.)

12 (Court resumes.)

13 (Defendant present. Jury present.)

14 THE COURT: Does counsel need to see me or are
15 we all set?

16 MR. JACKSON: I think we are all set.

17 MR. LALLY: No, Your Honor.

18 THE COURT: Go right ahead, Mr. Jackson.

19 MR. JACKSON: Thank you, Your Honor. As a
20 matter of housekeeping, I would ask for the
21 admission of the last item that was marked for
22 identification.

23 THE COURT: It was "XX" or was it "YY"?

24 MR. JACKSON: "YY." I did the same thing. I
25 think it's "XX."

1 THE COURT: So that will now be what?

2 THE COURT REPORTER: No. 542, Your Honor.

3 (Whereupon, thumb drive with video was entered and
4 marked Exhibit No. 542 in Evidence.)

5 MR. JACKSON: And, with the Court's
6 permission, I'd ask to display that video to the
7 jurors.

8 THE COURT: Okay.

9 MR. JACKSON: Mr. Bates, if you could move
10 that to a runtime of one minute and 17 seconds or
11 thereabouts. And go ahead and pause that.

12 BY MR. JACKSON:

13 Q Sergeant, do you recognize what is depicted in
14 what's just been marked as Exhibit 542?

15 A I do.

16 Q How do you recognize that?

17 A It's an inversion of the video provided from
18 Canton P.D. sally port.

19 Q It's actually -- and that inversion corrects
20 the perspective. Would you agree with that?

21 A I would.

22 Q Okay. So now we are looking at the -- well,
23 what we've always been looking at but we are clearly
24 looking at the driver's side of the vehicle, correct?

25 A That's correct.

1 Q And everything in it is properly oriented; is
2 that right?

3 A It is an accurate depiction of what is taking
4 place.

5 Q Meaning right is right and left is left in
6 this video?

7 A The vehicle came from the right and to the
8 left. The driver's side is visible and is closest to
9 the camera.

10 Q Thank you, Sergeant.

11 MR. JACKSON: Let's go ahead and play this for
12 just a few seconds, please.

13 (Whereupon, the video is played.)

14 MR. JACKSON: Pause it.

15 (Whereupon, the video is paused.)

16 Q You say the person that was toward the back of
17 the vehicle that you earlier on Wednesday identified as
18 Trooper Proctor moving toward the right -- I'm sorry --
19 yes, the passenger side taillight area in this video,
20 correct?

21 A I observed a person walking that way.

22 MR. JACKSON: Let's go ahead and play it.

23 (Whereupon, the video is played.)

24 MR. JACKSON: Pause it.

25 (Whereupon, the video is paused.)

1 Q And you see the person toward the taillight
2 area moving out of frame just now, correct?

3 A I did, yes.

4 Q And that person had that black portfolio in
5 his hand?

6 A That's correct.

7 MR. JACKSON: I'd like to ask Mr. Bates if you
8 wouldn't mind moving the curser back to the
9 beginning before the SUV was actually in the sally
10 port, and if you can pause that.

11 Q Do you see what's depicted in the video now,
12 the runtime at the beginning of the video?

13 A I see the still frame. I'm observing the
14 still frame.

15 Q Okay. That's fair enough. Can you see from
16 where you are, sir, can you see the chyron at the
17 bottom of the video in blue, indicating and the date
18 stamp and the timestamp? Can you see that from where
19 you are?

20 A I see the blue color. I don't know what
21 exactly it is.

22 Q Are your eyes good enough to see that that is
23 completely inverted?

24 A They're not.

25 Q They're not inverted?

1 A They are not good enough.

2 Q That was a good answer to a bad question on my
3 part.

4 MR. JACKSON: With the Court's permission,
5 would it be possible for the sergeant to approach
6 the screen and take a look at that timestamp?

7 THE COURT: Can you do that, Sergeant, please?

8 THE WITNESS: Yes, Your Honor.

9 (Witness complies.)

10 MR. JACKSON: May I inquire?

11 THE COURT: Yes.

12 BY MR. JACKSON:

13 Q Were you able to see that timestamp?

14 A Yes, I was.

15 Q Sergeant, did that timestamp appear to be
16 inverted?

17 A The blue writing appears to be backwards.

18 Q So in this version of the video which has been
19 inverted from the version shown by the Commonwealth,
20 the timestamp also was inverted, correct?

21 A What appears on the screen is inverted.

22 Q Thank you.

23 MR. JACKSON: I'd like to zoom in, just with
24 the Court's permission, on a portion of the middle
25 of the video.

1 THE COURT: You may.

2 BY MR. JACKSON:

3 Q Sergeant, I want to direct your attention to
4 an area of the video right above the hand truck. Do
5 you see that area?

6 A I do.

7 Q Do you see that white object just above the
8 snow line?

9 A I see something there. I do not know what it
10 is, if it's an object or it's more snow.

11 Q Can you tell if that's sort of a dirty white
12 rag?

13 A I cannot tell what it is.

14 Q Fair enough.

15 MR. JACKSON: We can take that down.

16 Q We've seen a corrected version of that sally
17 port video from that camera. There is also another
18 camera on the opposite side of the sally port; isn't
19 there?

20 A There is.

21 Q And that one, for lack of a better phrase,
22 that one came out pretty grainy, would you agree?

23 A Yes. It's not perfect quality.

24 Q The other view would show, given the fact that
25 it's on the opposite side of the wall of this video,

1 that actually would show the right rear portion of the
2 SUV as it was parked in that sally port, would it not?

3 A Yes, it would.

4 Q Let's take a look, with the Court's permission

5 --

6 MR. JACKSON: This has already been marked as
7 446. I believe it was introduced last week. With
8 the Court's permission, could we display that?

9 THE COURT: Yes.

10 MR. JACKSON: Thank you.

11 BY MR. JACKSON:

12 Q I know it's very hard to see, Sergeant, but
13 could you tell me, as the video is paused right here at
14 the beginning and timestamp, can you see the outline of
15 the antique police car?

16 A I can make that out, yes.

17 Q And it appears that there is no vehicle in the
18 foreground this side of that antique police car,
19 correct?

20 A That is correct.

21 Q You also can see that this video is, in fact,
22 not inverted; it's the correct orientation, right?

23 A That's correct.

24 Q And, obviously, it's pretty lacking in
25 quality, but you can make out the fact that there is an

1 outline of a vehicle there, correct?

2 A That's correct.

3 MR. JACKSON: If we could play -- may I
4 approach the screen briefly?

5 THE COURT: Yes.

6 MR. JACKSON: If we could, with the Court's
7 permission, begin playing at this time? This is
8 about 5:07 and 10 seconds. That's time of day. If
9 we could play for about a little less than a
10 minute?

11 THE COURT: Okay.

12 (Whereupon, the video is played and paused.)

13 BY MR. JACKSON:

14 Q Sergeant, did you see what was depicted on the
15 video that just ran from 5:07 and a few seconds until
16 it was just paused?

17 A I did watch the video.

18 Q And how much time would you estimate elapsed
19 as we just watched that video in realtime?

20 A Fifteen seconds, maybe.

21 Q Okay. And do you see something in the
22 foreground that just sort of appeared there next to
23 that antique police car?

24 A It appears that the SUV has now pulled into
25 the sally port. There is an individual standing behind

1 the SUV.

2 Q And do you see what the time of day is on that
3 timer?

4 A I do not.

5 Q Can you see that it's paused at 5:50, 5-0, and
6 46 seconds?

7 A I cannot.

8 MR. JACKSON: This is the last time that I
9 would ask -- unfortunately, I cannot zoom on this,
10 Your Honor. With the Court's permission, may the
11 sergeant make one more trip to the screen to give
12 us the exact time that this is paused?

13 THE COURT: This is the last time. Sergeant,
14 would you please?

15 THE WITNESS: Thank you, Your Honor.

16 (Witness complies.)

17 BY MR. JACKSON:

18 Q What was the time that -- what is the
19 timestamp where the video was paused?

20 A 5:50:46.

21 Q 5:50 and 46 p.m., correct?

22 A That's correct.

23 Q So it appears that this video in about 15
24 seconds jumps 42 minutes to the 5:50 mark, correct?

25 A I don't know how much it jumps.

1 Q Well, from 5:08 approximately to 5:50
2 approximately, how much time is that?

3 A Approximately 48.

4 Q Forty-two minutes, right?

5 A Excuse me. Forty-two.

6 Q That's okay. And Ms. Read's vehicle which
7 shows the right rear taillight portion just appears,
8 correct, at 5:50?

9 A There is a vehicle that appears. There
10 appears to be an individual standing behind the
11 vehicle. It's not just the taillight that appears.

12 Q But, Sergeant, the exact time that would show
13 what Trooper Proctor was doing at the right rear
14 taillight, that is missing?

15 MR. LALLY: Objection.

16 THE COURT: Sustained.

17 BY MR. JACKSON:

18 Q The exact time that would show the person who
19 you identified on Wednesday as being Trooper Proctor,
20 that video is not there, correct?

21 MR. LALLY: Objection.

22 THE COURT: Sustained.

23 BY MR. JACKSON:

24 Q This video, Sergeant, you will agree, if that
25 42-minute period existed, that would have shown -- that

1 would have been the only video that would establish the
2 actual condition of the taillight the moment the SUV
3 arrived in police custody in that sally port, correct?

4 MR. LALLY: Objection.

5 THE COURT: You can ask that differently.

6 BY MR. JACKSON:

7 Q Is there any other video other than this one
8 that would show the exact condition of that taillight
9 as it pulled into the driveway, into the sally port, or
10 is this the only one?

11 A From that location?

12 Q Correct.

13 A That is the video that captures that time
14 frame.

15 Q And that is also the video that captures that
16 area of the car, correct, the right rear portion of the
17 car?

18 A Correct.

19 Q And that 42 minutes from when the car arrived
20 until 5:50 in the evening, that portion is missing,
21 correct?

22 A It's not missing. It's just not recorded.

23 Q It's not there, Sergeant Bukhenik. I'm not
24 splitting words with you, splitting hairs. It's not
25 there. It's gone, correct?

1 A It's not on the screen, no.

2 Q It's not anywhere, is it?

3 A I do not know.

4 MR. JACKSON: That's all I have, Your Honor.

5 THE COURT: Mr. Lally?

6 MR. LALLY: Thank you, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. LALLY:

9 Q Good morning, Sergeant.

10 A Good morning, sir.

11 Q So how this video was played before the jury
12 on Wednesday during your direct testimony, the
13 condition of that video, the view of that video, that's
14 how you received it from the Canton Police Department,
15 correct?

16 A That's correct.

17 Q So nothing was done to alter it, change it in
18 any way, shape or form from when you received it to
19 when it was played before the jury?

20 MR. JACKSON: Objection.

21 THE COURT: Sustained. You can't lead,
22 Mr. Lally.

23 MR. LALLY: Sure.

24 BY MR. LALLY:

25 Q What, if anything, was done to alter or change

1 that video between the time that you received it to the
2 time that it was played before the jury?

3 MR. JACKSON: Objection.

4 THE COURT: Ask it differently.

5 BY MR. LALLY:

6 Q As far as the condition when you received it
7 and the condition when it was played for the jury, what
8 was different?

9 A There was no manipulation, alteration of the
10 video between --

11 MR. JACKSON: Objection.

12 THE COURT: I'll allow the answer.

13 THE WITNESS: -- between when we received it
14 from the Canton Police Department, when I played it
15 and when it was played for you.

16 BY MR. LALLY:

17 Q Now, as far as the cameras being -- the
18 cameras are motion activated, correct?

19 A That's correct.

20 Q And, as far as the skipping that you observed
21 at various points of the video, was that something that
22 occurred once or more than once?

23 A More than once. Repeatedly.

24 Q And was it one specific portion of the video?
25 And, by that, I mean was it only at the beginning or

1 only in the middle or only at the end or was it sort of
2 throughout?

3 A It's consistently happening when there is lack
4 of motion. The video does not record because it is not
5 triggered to record.

6 Q Now, from the video at least as far as you've
7 seen, the one that you were shown on Wednesday and the
8 one that you were shown today or the portions that you
9 were shown today, what, if any, difference did you note
10 between the content of what's contained in the video?

11 A The content of the video is an accurate
12 depiction of what's taking place. The only difference
13 that I noticed today is that the version played was
14 actually inverted from the original version that I
15 received and which was produced.

16 MR. LALLY: Your Honor, with the Court's
17 permission, I would ask that the entirety of that
18 five minutes and fifty-one seconds of video be
19 played for the jury.

20 THE COURT: It may.

21 MR. LALLY: May I have one moment, Your Honor?

22 THE COURT: Yes.

23 (Whereupon, the video is played.)

24 MR. LALLY: If you could pause it there,
25 Ms. Gilman.

1 (Whereupon, the video is paused.)

2 BY MR. LALLY:

3 Q That area just played before the jury, that is
4 when the vehicle was brought in by the tow truck driver
5 from the flatbed from the driveway video into the sally
6 port area, correct?

7 A That's correct.

8 Q Thank you.

9 MR. LALLY: Ms. Gilman, if you could.

10 (Whereupon, the video is played.)

11 MR. LALLY: Ms. Gilman, if you would pause it
12 there, please.

13 (Whereupon, the video is paused.)

14 Q Sergeant, I am going to direct your attention
15 to the person that just opened the driver's side door.
16 that's the tow truck driver; is that correct?

17 A That's correct.

18 Q I'd just ask you to take a look at the door
19 and, in particular, the snow on the door when he closes
20 that door.

21 MR. LALLY: Ms. Gilman, if you could.

22 (Whereupon, the video is played.)

23 MR. LALLY: If you would pause for just one
24 moment.

25 (Whereupon, the video is paused.)

1 Q Sergeant, if I could direct your attention
2 back to the Ring video camera, I think it was Video 153
3 from Exhibit 6. And you were shown that video on
4 cross-examination and asked about any movement that you
5 saw on the driver's side rear tire, things of that
6 nature. Do you recall that?

7 A I do.

8 Q And do you recall that portion of the video
9 when it's alleged that Ms. Read's vehicle came close to
10 or made contact with Mr. O'Keefe's vehicle in the
11 driveway? At that point, did you observe any snow
12 coming off of Mr. O'Keefe's car when they came close to
13 each other?

14 MR. JACKSON: Objection.

15 THE COURT: I'll allow it.

16 THE WITNESS: I don't remember exactly if
17 there was snow coming off the vehicle. There was
18 snow falling, and that was captured by the Ring
19 video. I don't recall if any snow came off the
20 vehicle.

21 MR. LALLY: Ms. Gilman, if you could.

22 (Whereupon, the video is played and ended.)

23 MR. LALLY: Thank you, Ms. Gilman. And,
24 Mr. Officer, if we can have the lights back up.

25 BY MR. LALLY:

1 Q Now, Sergeant, that video starts at
2 approximately 5:30 p.m. on January 29th, correct?

3 A Correct.

4 Q And is that before or after the Ring video,
5 153 from Exhibit 6 at 5:07 in the morning at
6 Mr. O'Keefe's house, when you can see the defendant's
7 smashed taillight?

8 MR. JACKSON: Objection.

9 THE COURT: The objection is sustained. Ask
10 the question differently.

11 BY MR. LALLY:

12 Q 5:30 p.m. on January 29th. Is that before or
13 after 5:07 a.m. when you observed the defendant's
14 vehicle on the Ring video at Mr. O'Keefe's house?

15 A That is after.

16 Q And is that before or after you observed
17 on the Ring video the defendant, Ms. Roberts and
18 Ms. McCabe driving the defendant's vehicle and parking
19 it in the driveway of Mr. O'Keefe's house?

20 A It's after.

21 Q And is it before or after about say 8:22 in
22 the morning at some point when a Canton cruiser parks
23 in the driveway behind the defendant's vehicle?

24 A It's after.

25 Q And is it before or after about 12:30 p.m. or

1 so when the defendant and her father and her brother
2 from the videos from Exhibit 6, the Ring videos at One
3 Meadows Ave., are parked in and around the defendant's
4 vehicle and then leave with the defendant's vehicle to
5 go to Dighton?

6 A It's after.

7 Q And is it before or after the video that you
8 testified about on Wednesday in regard to the
9 surveillance vehicle from the defendant's father's
10 house in Dighton when that vehicle is being loaded onto
11 a truck and you can see the taillight there?

12 MR. JACKSON: Objection. Withdrawn.

13 THE WITNESS: It's after.

14 BY MR. LALLY:

15 Q Now, again, you had a conversation or an
16 interview with the defendant on the afternoon of
17 January 29th when you were in Dighton, correct?

18 A That's correct.

19 Q And during the course of that interview, she
20 made statements about her broken taillight and when
21 that occurred, correct?

22 MR. JACKSON: Objection.

23 THE COURT: Do you want the instruction?

24 MR. JACKSON: Sidebar.

25 (Whereupon, there was a sidebar conference as

1 follows:)

2 THE COURT: Did you get the whole sentence
3 out, the whole question out?

4 MR. LALLY: Yes.

5 THE COURT: Okay.

6 MR. JACKSON: It's outside the scope. Her
7 statements I never addressed.

8 MR. LALLY: That's not outside the scope
9 because he's raised as far as issues where
10 Trooper Proctor was around the taillight. And the
11 defendant said to them earlier, hours before they
12 were back at the Canton Police Station, that she
13 broke it the night before.

14 MR. JACKSON: Which you got out on direct
15 examination which I did not address on cross.

16 THE COURT: All right. You are implying that
17 Proctor broke the taillight?

18 MR. JACKSON: I'm implying that Proctor was
19 standing near the taillight based on video
20 surveillance. I'm not implying it. He was
21 standing near the taillight based on video
22 surveillance.

23 THE COURT: Okay. If you intend to argue it,
24 I'll let the prosecutor get this question in.

25 MR. JACKSON: He's allowed to get in questions

1 that he asked on direct examination --

2 THE COURT: This is one of the problems of
3 taking so many days off. You didn't touch upon
4 this at all?

5 MR. JACKSON: No. Zero.

6 THE COURT: All right. I'm not going to allow
7 it. You can argue it.

8 MR. LALLY: Understood.

9 (Whereupon, the sidebar conference concluded.)

10 BY MR. LALLY:

11 Q Now, Sergeant, between the version of the
12 video that you and the jury witnessed on Wednesday and
13 the version that you just witnessed the entirety of
14 right now, again, what, if any, difference as far as
15 the depiction or people or places between those two
16 versions of the video?

17 A Outside of it being a mirror image of itself,
18 it accurately depicts any activity or action in the
19 sally port.

20 Q And, at any point in time that you were in the
21 sally port area of the Canton Police Department garage,
22 did you or Trooper Proctor ever go near, touch,
23 manipulate the rear passenger side taillight area or
24 the rear passenger side quarter panel of the
25 defendant's vehicle?

1 A We absolutely did not.

2 Q Now, if I could turn you back to some
3 questions you were asked on cross-examination about
4 something that was reported to the chief medical
5 examiner's office. Do you recall that?

6 A I do recall that.

7 Q And some questions about statements that you
8 had made to the OCME at approximately 10:41 a.m. on
9 January 29th. Do you recall that?

10 A I do recall that.

11 Q And you were asked some questions about
12 reporting it as a possible domestic assault, correct?

13 A That is correct.

14 Q And can you explain to the jury what led to
15 that statement as far as what you knew at that time and
16 why you would make those statements to the medical
17 examiner?

18 A The Massachusetts General Law directs us, just
19 as it gives the district attorneys power and authority
20 over all death investigations. That's the following
21 section, Section 4 of that chapter. Excuse me. The
22 following section from Section 4. Section 5 of that
23 chapter directs all state, medical and police entities
24 to work in coordination with the medical examiner's
25 office.

1 By law, we are supposed to work together on
2 medical-legal investigations that the medical
3 examiner's office conducts. We conduct a criminal
4 portion of the investigation. They conduct the medical
5 portion of the investigation. Thus, I contacted the
6 medical examiner's office and advised them about what
7 we had learned at the time.

8 Up to that point, we had learned that the
9 defendant stated that she hit him. We had collected,
10 meaning the Canton Police Department had collected, a
11 broken glass. So based on the physical evidence and
12 the statements made by the defendant to the first
13 responders at the scene at that point in time, I had
14 communicated those facts to the medical examiner's
15 office. That way, they would document it but also be
16 prepared to investigate the case with the most up-to-
17 date information available.

18 Q Now, at that time that you made that statement
19 to the representative from the chief medical examiner's
20 office, had you been to Good Samaritan Hospital and
21 seen Mr. O'Keefe at that point?

22 A I had not.

23 Q And had you obviously seen any of the injuries
24 that Mr. O'Keefe had sustained prior to making that
25 statement to the medical examiner?

1 A I had not.

2 Q Now, as far as the information that you
3 received, you mentioned first responders, indicating
4 that the defendant had stated, I hit him. Who was the
5 first responder that provided that information?

6 A The Canton Police, Sergeant Goode.

7 Q In addition to that, did you or Trooper
8 Proctor speak with any of the Canton Fire personnel?

9 A Yes, we did.

10 Q And who did he speak with?

11 A I believe it was Firefighter Flematti.

12 Q So Firefighter Flematti; is that correct?

13 A That's correct.

14 Q Now, after going to Good Samaritan Hospital
15 and viewing Mr. O'Keefe's injuries, as far as what you
16 had earlier reported to the medical examiner, what, if
17 anything, changed based on those observations as far as
18 your opinion as to what had transpired?

19 A Based on what I learned from observing the
20 injuries, I could tell that the glass --

21 MR. JACKSON: Objection, Your Honor.

22 THE COURT: I'm going to allow it. You can
23 move to strike it, but I'm going to allow it.

24 THE WITNESS: I could tell that the glass was
25 most likely not the object, the weapon which was

1 used to cause the injury to the back of
2 Mr. O'Keefe's head.

3 MR. LALLY: Thank you, sir.

4 Your Honor, may I have a moment?

5 THE COURT: Yes.

6 MR. LALLY: Thank you, sir. I have no further
7 questions, Your Honor.

8 THE COURT: Any recross?

9 MR. JACKSON: Very briefly, Your Honor.

10 RECROSS-EXAMINATION

11 BY MR. JACKSON:

12 Q In your report to the OCME, you said it was a
13 glass to the face, not to the back of the head,
14 correct?

15 A I'm not sure how they wrote it down, but I
16 would need to be refreshed on my memory.

17 Q Fair enough.

18 MR. JACKSON: May I approach?

19 THE COURT: Yes.

20 BY MR. JACKSON:

21 Q Last sentence.

22 MR. JACKSON: May I?

23 THE COURT: Yes.

24 BY MR. JACKSON:

25 Q Thank you, Sergeant. Does that refresh your

1 recollection?

2 A Yes, it does.

3 Q What did you report to the OCME?

4 A That there was a possibility the decedent was
5 struck to the face with a glass.

6 Q You also, with regard to the phrase "I hit
7 him" or Sergeant Goode and/or Flematti telling you
8 that she said, Ms. Read said, she hit him, when did
9 Sergeant Goode tell you that?

10 A It would have been during our conversations at
11 the police department.

12 Q And when did EMT Flematti tell you that?

13 A He never told me that.

14 Q So the only thing you were going on with
15 regard to the phrase or the statement that you claim my
16 client indicated, where my client indicated she hit
17 him, is coming from Sergeant Goode?

18 A That information at that time was provided by
19 the first responders from the scene.

20 Q And Sergeant Goode then related that to you,
21 correct?

22 A At some point, yes.

23 Q Is there a single report memorializing that
24 Sergeant Goode reported to you that morning before
25 10:41 a.m., before 10:41 a.m., that my client made the

1 statement that she hit him?

2 A I don't believe so.

3 Q I want to shift gears real quick to the video,
4 a couple of quick questions about that. When did you
5 -- and I'm talking about the higher quality video, the
6 one that was inverted. When did you receive that
7 video? What date?

8 A I'm not sure. It was at some point in either
9 late April or early May.

10 Q After we had started this trial?

11 MR. LALLY: Objection.

12 THE COURT: Do you know?

13 THE WITNESS: I do not know.

14 BY MR. JACKSON:

15 Q Well, after mid-April, correct?

16 A I believe so. I'm strictly speculating.

17 Q Who asked you to retrieve that video?

18 A I did not retrieve that video.

19 Q I'm sorry. That was a presumptuous question.

20 At what point were you asked to secure the
21 video or were you ever asked to secure the video?

22 A That video was never secured by me. I was not
23 asked to secure it. I was just asked to review it.

24 Q Okay. So who did secure the video to your
25 knowledge?

1 A I do not know.

2 Q You're aware that it was -- well, let me ask
3 you a couple of different questions, then, based on
4 that.

5 You've already testified that you knew that
6 the Canton Police Department was recused from any
7 investigation concerning this case, correct?

8 A At one point, we learned that the Canton
9 Police Department -- a decision was made way above my
10 level. And I was advised by Detective Lieutenant Tully
11 that Canton Police had recused themselves from the
12 investigation as far as interviews go.

13 Q And you knew that that recusal was because of
14 a connection between the Canton Police Department and
15 the Albert family, correct?

16 MR. LALLY: Objection.

17 THE COURT: Sustained.

18 BY MR. JACKSON:

19 Q Did you know or were you informed that the
20 recusal was based on the connection between the Canton
21 Police Department and the Albert family?

22 MR. LALLY: Objection.

23 THE COURT: So it's sustained for the same
24 reason I sustained the Commonwealth's objection at
25 sidebar, Mr. Jackson.

1 BY MR. JACKSON:

2 Q Last question: Who provided the video?

3 A I do not know.

4 Q The Canton Police Department, wasn't it?

5 A You asked who. That's an entity.

6 Q Okay. What entity provided the video?

7 A It came from the Canton Police Department.

8 MR. JACKSON: Thank you. That's all I have.

9 THE COURT: All right. Sergeant, you all set,
10 sir.

11 THE WITNESS: Thank you, Your Honor.

12 (Whereupon, the witness is excused.)

13 (Remainder of the day under separate cover.)

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C E R T I F I C A T E

I, Paula M. Mills, retired certified court reporter, do hereby certify that the foregoing pages, page 28-3 to 28-77, is a true and accurate transcription of the voice recording in the aforementioned matter to the best of my skill and ability.

This, the 24th day of December, 2024.

\s\ Paula M. Mills

Paula M. Mills

Retired Certified Court Reporter
and Court Transcriptionist

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